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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,952	12/14/2001	William Robert Newman	17,640	7377
23556	7590	12/28/2004	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC.			GOODMAN, CHARLES	
401 NORTH LAKE STREET			ART UNIT	
NEENAH, WI 54956			PAPER NUMBER	

3724

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/016,952	Applicant(s) NEWMAN ET AL.	
	Examiner Charles Goodman	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22,32,34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) 10-14,22 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9,15-21,32 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed on 10/11/2004 has been entered.

Election/Restrictions

2. Claims 10-14 and 22-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10. Moreover, claim 35 has been withdrawn since the elected species does not include this feature.

Thus, claims 1-9, 15-21, 32 and 34 remain for consideration on the merits. With regards to claims 8, 9 and 33, they have been withdrawn from consideration for the following reason.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8, 9, 15-21, 32, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Molzberger et al (EP 1 048 257 A2).

Molzberger et al discloses a hygiene roll dispenser, i.e. wipes, comprising all the elements claimed including, inter alia, a cartridge (e.g. 2) comprising a bottom wall (at 3

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in the Figures), at least one side wall (e.g. 4, 5, 6), a chamber (e.g. surrounding 15 in Fig. 2), and an opening (near 20 in Figs. 4-5); a cover (e.g. 1); an elongated dispensing passage (between 20 and 25 in Fig. 5); a rib (bend or juncture adjacent 21 in Fig. 5); and a lip (e.g. at 29). Figs. 1-10.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molzberger et al (EP 1 048 257 A2) in view of Ishikawa et al (US 5,699,912).

Molzberger et al discloses the invention substantially as claimed except for the cover providing at least a double seal about the perimeter of the lip except at the

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elongated dispensing passage. In that regard, Ishikawa et al teaches a container for wetted tissues, i.e. wet wipes, in which the cover (33) provides a double seal about the perimeter of the lip (12) vis-a-vis the portion of the cover over the lip and the projection (34b) which performs at least the dual functions of locking the cover to the cartridge in an enhanced manner (10) and inherently preventing undue or excessive evaporation of the moisture in the wet wipes. See e.g., Fig. 3B, c. 4, ll. 42-55. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the cover of Molzberger et al with a double seal about the perimeter of the lip as taught and suggested by Ishikawa et al in order to facilitate enhanced locking and sealing of the cover to the cartridge to thereby prevent excessive or undue moisture evaporation of the wet wipes as well as insuring the hygienic dispensing.

In light of the modification of above, it is deemed obvious to the ordinary artisan that the modified device of Molzberger et al would not have the double seal at the location of the elongated passage, since if the features comprising the double seal were to obstruct the elongated passage in the modified device of Molzberger et al, they would prevent dispensing of the wet wipes through said passage.

Response to Arguments

8. Applicant's arguments filed 10/11/2004 have been fully considered but they are not persuasive.

In response to Applicant's basic argument that Molzberger et al does not anticipate the claims because Molzberger et al allegedly lacks the claimed top flange, this argument is traversed. The "latching" mechanism in Molzberger et al as Applicant

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argues in fact includes structure which read on the claimed top flange, since this feature (e.g. 33) is extended from the cover (3). It also serves the purpose of being "removably self-fastenable." Moreover, even though Molzberger et al has a latching mechanism, there is nothing in the claim which specifically excludes a latching mechanism from reading on this limitation.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (571) 272-4508. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (571) 272-4514. In lieu of mailing, it is encouraged that all formal responses be faxed to (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

cg 
December 27, 2004


Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER